



CITY OF
HAYWARD
HEART OF THE BAY

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DATE: January 15, 2008
TO: Mayor and City Council
FROM: Director of Public Works
SUBJECT: Introduction of Ordinance to Amend Municipal Code Chapter 5, Article 1 – Solid Waste Collection and Disposal

RECOMMENDATION

That Council introduces the attached ordinance updating the City's regulations for solid waste collection and disposal.

BACKGROUND

At its December 11, 2007, work session, Council discussed the proposed revisions to the City's Municipal Code. It was the consensus of the Council that the City adopts the proposed changes.

On January 9, 2007, the City Council approved a Franchise Agreement with Waste Management of Alameda County (WMAC). The Agreement, which became effective June 1, 2007, requires WMAC to comply with all laws and regulations, including the Hayward Municipal Code. The existing Municipal Code provisions were adopted in 1960. Staff is proposing that Article 1 of Chapter 5 of the Municipal Code be replaced with an updated version that, among other changes, includes specific definitions that are consistent with those used in the Franchise Agreement to delineate the services provided by WMAC, and provides revised descriptions of the types of permissible third-party solid waste services. Some sections that are no longer relevant are proposed for deletion, specifically, those provisions regarding obtaining permits for and operating a landfill.

DISCUSSION

Summarized below are the specific provisions proposed in the attached draft of Chapter 5, Article 1, Refuse Collection and Disposal, and the reasons for those recommendations:

1. New Definitions Describe Expanded Scope of Services: Examples of terms that reflect the expanded scope of services include construction and demolition debris, source separated recyclable materials, source separated organic materials, and e-scrap items. Other terms

included are those defined in state legislation, (e.g., alternative daily cover and designated waste). (See Section 5-1.01)

2. Require Timely Retrieval of Carts and Bins from the Curb and Storage Out of Public View from the Street: This provision is being proposed in response to concerns raised by Council members and the Keep Hayward Clean and Green Taskforce about the lack of specific requirements in the existing Code to improve the aesthetic quality of neighborhoods and to reduce the amount of illegal dumping observed. A new Section 5-1.15 stipulates that carts used by residents may be placed on the curb after 6:00 a.m. the day before regular collection, must be removed by midnight on the day of collection, and must be stored on the property and out of view from the street for the balance of each week. The same provisions (Section 5-1.16) would apply for multi-family dwellings or businesses if their carts or bins must be emptied curbside. An exception to these provisions would be made if the cart or bin was not emptied on the scheduled collection day and alternative arrangements were made. Similar setout and retrieval requirements are proposed for bulky items not collected by WMAC in conjunction with the annual appointment available to single-family residents.

As the existing Article 1 does not include any specific timeframes for retrieval of containers, enforcement efforts using administrative citation procedures are not presently possible. Thus, currently, after receiving a complaint, Public Works staff mails a courtesy letter asking residents, managers of multi-family complexes, or business owners to place their carts or bins curbside no earlier than the day before regular collection, to retrieve the container after it has been emptied, and to store it out of view from the street. Staff estimates about 90 percent compliance as a result of these letters. If the proposed changes are approved, Public Works staff could apply administrative citation procedures in response to reports of non-compliance, in the same manner as the recently (2003) adopted procedures for Community Preservation. An initial courtesy letter would be mailed in order to advise the property owner of the requirements and the reasons for the request, as the owner may not be aware of the provisions. If reports indicate that further action is warranted, an administrative warning notice would be mailed to the owner describing the violation and the corrective action required. Subsequent notices would include fines as described in the City's Municipal Code Chapter 1, Article 3, Penalties (presently \$100 for the first citation, \$200 for the second and \$500 for each subsequent citation). Other jurisdictions employing administrative citation procedures include Berkeley, Fremont, and San Leandro. A minor change to Chapter 1 Article 3 would also be required to add this article to those for which Public Works has enforcement authority.

3. Limit Removal and Disposal of Construction and Demolition Debris by Third-Party Haulers: The City's Franchise with WMAC includes a provision in which construction and demolition debris may be removed by third-party haulers under certain circumstances. For example, a landscaper may haul green waste or dirt generated as part of the work, or a roofer may haul shingles removed from a re-modeling project. However, neither contractor is authorized to subcontract to someone other than WMAC to haul the debris for disposal. Construction and demolition debris may be removed from a site using dump trucks or trailers operated by the contractor. However, WMAC is the only entity allowed to provide roll-off boxes or other refuse containers to the site. Staff recommends incorporating into the Municipal Code the provisions established in the City's Franchise with WMAC. (See Section 5-1.26(a))

4. Limits on Residue in Loads of Recyclables and Organic Materials Transported by Third-Party Haulers: The Franchise includes provisions for acceptable residue amounts in loads of mixed paper, co-mingled recyclables, and organic materials. Third-party haulers are prohibited from transporting loads that significantly exceed those thresholds. Staff recommends incorporating the thresholds established in the City's Franchise with WMAC into the Municipal Code. (See Section 5-1.26(c))
5. Prohibit Placement or Disposal of Solid Waste Except on the Property Where It Was Generated: This provision is recommended in response to complaints received from some residents and business owners who report items placed in their carts or bins by unauthorized third parties. The only exception to this provision would be where earth, rock, concrete, and other non-combustible inorganic materials may be disposed of at specific locations when used for purposes of properly permitted fill, and when such operations do not impede natural drainage channels, drainage outlets, or result in pollution or contamination of waters. (See Section 5-1.21)
6. Rate Subsidy for Low-Income Single-Family Residents: The City has established eligibility criteria and lower rates for low-income single-family residents, and periodically advises WMAC of additional residents who may pay the lower rates. Currently, the low-income monthly rate for a 32-gallon garbage cart is \$17.24, rather than the standard rate of \$23.28. The amount of the subsidy increases annually, proportional to any increase in the standard rate per the Franchise Agreement. (See Section 5-1.12)
7. Require Storage Space to Collect and Remove Recyclable Materials: For a number of years, City staff has required residential or commercial projects with a value of \$75,000 or more to include in their site plans storage space for recyclable materials that is at least equivalent to the space required for materials intended for disposal. These requirements have been incorporated in Section 5-1.27, in order to formalize the existing practices, which are consistent with state law.
8. Delete Outdated Provisions Regarding Permits for and Operation of a Landfill: These provisions are no longer relevant as no landfill may be sited in the City.

FISCAL IMPACT

There should be minor fiscal impact to the City, residents, or businesses, as a result of the proposed changes relative to the assessment of administrative citations. The minimal added administrative costs related to citations for improper placement of carts and bins should be offset by revenue from fines.

PUBLIC CONTACT

Since apartment owners may be impacted by the proposed revisions, staff sent letters to 48 apartment owners in various parts of the City advising them of the proposed changes and inviting

them to a January 4 meeting to discuss the proposed changes. None of the apartment owners attended the meeting and no apartment owners have contacted staff to discuss the proposed changes. On request from Council, staff will also prepare a summary of the changes to the Code which will be included in the next garbage bills for residents and businesses.

A notice has been issued in the local paper advising residents of a public hearing before the Council regarding the proposed revisions to the Municipal Code, and how residents may comment on those revisions. A copy of the revised Article 1 is on file in the City Clerk's Office.

SCHEDULE

Adoption of the ordinance is anticipated on January 22, 2008 and would be effective 30 days later.

Prepared by:



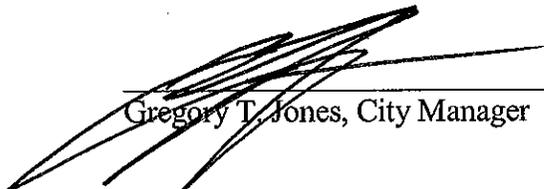
Alex Ameri, Deputy Director of Public Works

Recommended by:



Robert A. Bauman, Director of Public Works

Approved by:



Gregory T. Jones, City Manager

Attachment: Draft Ordinance

DRAFT

ORDINANCE NO. 08-

mae
1/9/08

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 1 OF
THE HAYWARD MUNICIPAL CODE RELATING TO
SOLID WASTE COLLECTION AND DISPOSAL

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAYWARD
DOES ORDAIN AS FOLLOWS:

Section 1. Upon the adoption of this ordinance, Chapter 5, Article 1, of the
Hayward Municipal Code is hereby repealed and in substitution thereof, a new Chapter 5,
Article 1 is hereby enacted to read as follows:

“HAYWARD MUNICIPAL CODE

CHAPTER 5

SANITATION AND HEALTH

SUBJECT MATTER INDEX

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ARTICLE 3	MOBILE HOME REGULATIONS
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ARTICLE 6	SMOKING POLLUTION CONTROL
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REQUIREMENTS

ARTICLE 9

PROHIBITION OF SCAVENGING

ARTICLE 10

**CONSTRUCTION AND DEMOLITION DEBRIS WASTE
REDUCTION AND RECYCLING REQUIREMENTS**

ARTICLE 1

SOLID WASTE, RECYCLABLE MATERIALS AND ORGANIC MATERIALS MANAGEMENT

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5-1.01	DEFINITIONS
5-1.10	SUBSCRIPTION TO SERVICE REQUIRED; MINIMUM WEEKLY SERVICE
5-1.11	RATES CHARGED BY FRANCHISEE
5-1.12	RATE SUBSIDY FOR LOW-INCOME SINGLE FAMILY RESIDENTS
5-1.13	COLLECTION AND REMOVAL
5-1.14	CONTAINERS: WATERTIGHT AND SUFFICIENT CAPACITY
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5-1.16	COLLECTION LOCATION, FREQUENCY, PLACEMENT AND RETRIEVAL FROM MULTI-FAMILY DWELINGS, PREMISES AND COMMERCIAL PREMISES
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- 5-1.24 OWNERSHIP OF COLLECTED MATERIALS
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AUTHORIZED FRANCHISEE
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- 5-1.27 SPACE TO COLLECT AND LOAD RECYCLABLE
MATERIALS AND ORGANIC MATERIALS

ARTICLE 1

SOLID WASTE, RECYCLABLE MATERIALS AND ORGANIC MATERIALS MANAGEMENT

SEC. 5-1.00 PURPOSE AND INTENT. It is hereby declared to be in the interest of the public health, sanitation, safety and welfare of all the residents of the City of Hayward that the accumulation, preparation, storage, collection, transportation and disposal of Solid Waste, Yard Trimmings and Recyclable Materials in the City of Hayward be handled in such a safe, sanitary, routine and efficient manner so as to maximize the reduction, reuse, Recycling and Composting of materials that otherwise would become municipal Solid Waste; to preserve and maximize landfill disposal capacity; to maintain the good condition, cleanliness and safety of City rights-of-way; to comply with state law; to prohibit the harboring and breeding of rodents, insects and other pests; to reduce contamination of the environment by the unauthorized burying, burning, pollution of the air caused by burning, fermentation, or putrefaction of such materials, to prevent the spread of diseases associated with unsanitary conditions; to reduce the hazards of fire, and to prevent unsightliness and other public nuisance which may result in the depreciation of property values and otherwise interfere with the comfortable enjoyment of life within the City.

SEC. 5-1.01 DEFINITIONS. For the purposes of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their context that a different meaning is intended.

- (a) **Alternative Daily Cover.** Alternative Daily Cover (ADC) means cover material, other than earthen material, used to cover compacted solid wastes in a disposal site with at least six (6) inches of material, placed on the surface of the active face of the refuse fill area at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging, as defined in Section 20164 of the California Code of Regulations, as may be amended from time to time.
- (b) **Applicable Law.** Applicable Law means all federal, state, and local laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, Transfer, Transportation, Processing, and Disposal of Solid Waste, Recyclable Materials and Organic Materials that are in force, and as they may be enacted, issued or amended.
- (c) **Bulky Items.** Bulky Items means large discarded items including, but not limited to, Major Appliances, furniture, tires, carpets, mattresses, E-Scrap Items, clothing, Yard Trimmings, and other oversize materials whose large size precludes or complicates their handling by normal Collection, Processing, or Disposal methods, but can be Collected without the assistance of special loading equipment (such as forklifts or cranes) and without violating Collection vehicle legal load limits. Bulky Items do not include abandoned automobiles, large auto parts, or construction or demolition debris.

- (d) **Collection (or Variation Thereof).** Collection means the act of collecting Solid Waste, Recyclable Materials, Organic Materials, and other material at the place of generation in the City.
- (e) **Commercial.** Commercial means of, from or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, institutions, manufacturing and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property and which generate no more waste materials than will fit in the Containers provided for Residential service.
- (f) **Composting (or Compost).** Composting or compost includes a controlled biological decomposition of organic materials yielding a safe and nuisance-free Compost Product.
- (g) **Construction and Demolition Debris.** Construction and demolition debris means used or discarded materials removed from the premises during demolition, excavation, construction or renovation of a structure resulting from construction, remodeling, repair, improvement or demolition operations on any pavement, street, driveway, house, building or other structure or improvement regardless of the nature of each structure or improvement.
- (h) **Containers.** Containers means watertight storage receptacles with tight fitting covers to contain odors, whether they are Bins, Carts, Compactors, and Roll-off Boxes.
- (i) **Designated Waste.** Designated Waste means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment and which may be Disposed of only in Class II Disposal Sites or Class III Disposal Sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State of California, in California Code of Regulations Title 23, Section 2522, as may be amended from time to time.
- (j) **Discarded Materials.** Discarded Materials means Solid Waste, Recyclable Materials, Yard Trimmings, or Construction and Demolition Debris placed by a Generator in a receptacle and/or at a location that is designated for Collection pursuant to this Article.
- (k) **Disposal or Dispose (or Variation Thereof).** Disposal means the final disposition of Solid Waste at a Disposal Site. Disposal does not include the use of Yard Trimmings or other materials as Alternative Daily Cover so long as City and State regulations consider Alternative Daily Cover (ADC) use of Yard Trimmings or other specific materials as Diversion under the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded, and replaced from time to time.
- (l) **Diversion.** Diversion means activities which reduce or eliminate the amount of Solid Waste from Solid Waste Disposal including, but not limited to Recycling and Composting.

- (m) **Dwelling Unit.** Dwelling unit means any type of structure or building unit, designed or used for occupancy by one family, which meets the applicable City codes for residential living. Dwelling Unit does not include a hotel or motel unit.
- (n) **E-Scrap Items.** E-Scrap Items means discarded electronic equipment such as, but not limited to, television sets, computer monitors, central processing units (CPUs), laptop computers, external computer hard drives, computer keyboards, computer mice, computer printers, DVDs, and VCRs.
- (o) **Food Scraps.** Food Scraps means Discarded Organic Materials that will decompose and/or putrefy including (i) all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs, and (ii) paper waste contaminated with Food Scraps. Food Scraps is a subset of Organic Materials.
- (p) **Franchisee.** Franchisee means the Person franchised by the City to: (1) Collect, Transport, Process, and effect the ultimate Disposal of Solid Waste; and (2) Collect, Transport and Process Construction and Demolition Debris, Recyclable Materials, Organic Materials, and Yard Trimmings; and to use City streets for these purposes.
- (q) **Generator.** Generator means any Person as defined by the Public Resources Code, whose act or process produces Solid Waste, Recyclable Materials or Yard Trimmings as defined in the Public Resources Code, or whose act first causes Solid Waste to become subject to regulation.
- (r) **Hazardous Substance.** Hazardous Substance means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances”, “hazardous materials”, “Hazardous Wastes”, “toxic waste”, “pollutant” or “toxic substances” or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC Section 9601 et seq.; (ii) the Hazardous Materials Transportation Act, 49 USC Section 1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901 et seq.; and (iv) the Clean Water Act, 33 USC Section 1251 et seq.; (v) California Health and Safety Code Sections 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC Section 7901 et seq.; and (vii) California Water Code Section 13050; (b) any amendments, rules or regulations promulgated there under to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl’s (PCFs”), petroleum, natural gas and synthetic fuel products, and by-products.
- (s) **Hazardous Waste.** Hazardous Waste means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code Sections 25110.02, 25115, and 25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC Section 6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

- (t) **Household Hazardous Waste.** Household Hazardous Waste means Hazardous Waste generated at Residential Premises within the City.
- (u) **Infectious Waste.** Infectious Waste means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are identified in Health and Safety Code Section 25117.5 as may be amended from time to time.
- (v) **Multi-Family Dwelling.** Multi-Family Dwelling means any residential premises with more than four permanent Dwelling Units. Multi-Family Dwelling may also include such Premises when combined in the same building with Commercial Premises, regardless of the number of Multi-Family Dwelling Units, and subject to approval by the City Manager or his designee.
- (w) **Organic Materials.** Organic Materials means those Discarded Materials that will decompose and/or putrefy and that Generators separate from Solid Waste and Recyclable Materials for Collection in specially designated Containers for Organic materials Collection. Organic materials include Yard Trimmings and Food Scraps such as, but are not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces, other types of organic yard waste, vegetable waste, fruit waste, grain waste, dairy waste, meat waste, fish waste, paper contaminated with Food Scraps or otherwise not accepted in the Recyclable Materials Collection program, pieces of unpainted and untreated wood, and pieces of unpainted and untreated wallboard. No Discarded Material shall be considered to be Organic materials, however, unless such material is Source Separated from Solid Waste and Recyclable Material.
- (x) **Person(S).** Persons means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Alameda, and special purpose districts.
- (y) **Premises.** Premises means any land or building in the City where Solid Waste, Recyclable Materials, or Organic Materials are generated or accumulated.
- (z) **Process (or Variation Thereof).** Process means to prepare, treat, or convert through some special method.
- (aa) **Rate.** Rate means the dollar unit the Franchisee bills a Person for providing Solid Waste Collection and Disposal, Recyclable Materials Collection and Processing services, and Organic Materials Collection and Processing services, where such dollar unit has been approved by the City of Hayward and adjusted from time to time.
- (bb) **Recyclable Materials.** Recyclable Materials means Residential or Commercial Source Separated by-products of some potential economic value, set aside, handled, packaged, or offered for Collection in a manner different from regular Solid Waste. Recyclable Materials shall include, but not be limited to: cardboard, paper, plastic, scrap metal; beverage containers; clean (untreated and unpainted) wood; unpainted drywall; carpet and carpet padding; soil; and

inerts (concrete, asphalt, brick, rock, gravel, tiles). No Discarded Material shall be considered to be Recyclable Materials, however, unless such material is Source Separated from Solid Waste and Organic Materials.

(cc) Residential. Residential shall mean of, from, or pertaining to a Single-Family Premises, Multi-Family Premises, or other Dwelling Unit, including single-family homes, apartments, condominiums, townhouse complexes, mobile home parks, and cooperative apartments, excluding hotels and motels.

(dd) Salvageable Material. Salvageable Material means those Discarded Materials that may be reused in their existing form or may be reused after some form of Processing, including, but not limited to, Yard Trimmings and Recyclable Materials.

(ee) Single-Family Dwelling. Each single-family dwelling as used in this Article, means premises used for or designated as a single-family residential dwelling in which there is separate or individual garbage service. Single-family dwellings include each part of a: (a) condominium; (b) duplex; (c) triplex; (d) fourplex; (e) townhouse; or (d) mobile home park.

(ff) Solid Waste. Solid Waste means solid waste as defined in California Public Resources Code, Division 30, Part 1, Chapter 2, Section 40191 and regulations promulgated thereunder that requires Generators within the City to set out for Collection. Excluded from the definition of Solid Waste are Hazardous Waste, Infectious Waste, Designated Waste, Source Separated Recyclable Materials, Source Separated Organic Materials, and radioactive waste. Notwithstanding any provision to the contrary, "Solid Waste" may include de minimus volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe collection, recycling, treatment and disposal of Household Hazardous Waste in compliance with Section 41500 and 41802 of the California Public Resources Code as may be amended from time to time. Solid Waste includes Salvageable Materials only when such materials are included for Collection in a Solid Waste Container.

(gg) Source Separated. Source Separated means the segregation of materials, by the Generator, at the site of generation and designated for separate Collection for some form of Recycling, Composting, recovery, or reuse.

(hh) Source Separated Recyclable Materials. Source Separated Recyclable Materials means Recyclable Materials, segregated by the Generator, at the site of generation, and which are Recycled at a recycling facility that holds all applicable permits, provided, however, that (1) loads which consist of mixed paper and which contain more than ten percent (10%) by weight of non-recyclables shall not be considered Source Separated Recyclable Materials; and (2) loads which consist of commingled Source Separated Recyclable Materials, other than mixed paper and which contain more than five percent (5%) by weight of non-recyclable materials shall not be considered Source Separated Recyclables.

(ii) Source Separated Organic Materials. Source Separated Organic Materials means Organic Materials, segregated by the Generator, at the site of generation, and which are composted at a facility that holds all applicable permits, provided, however, that loads which contain more than five percent (5%) by weight of non-compostable materials shall not be considered Source Separated Organic Materials.

(jj) Transfer. Transfer means the act of unloading Solid Waste, Organic Materials, or Recyclable Materials from Collection vehicles, loading such materials into Transfer vehicles, and transporting them to approved facilities.

(kk) Yard Trimmings. Yard Trimmings means those Discarded Materials that will decompose and/or putrefy, including but not limited to, green trimmings, grass, weeds, leaves, prunings, small tree branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of organic waste. Yard Trimmings are a subset of Organic Materials.

COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS, ORGANIC MATERIALS, AND BULKY ITEMS

SEC. 5-1.10 SUBSCRIPTION TO SERVICE REQUIRED; MINIMUM WEEKLY SERVICE. All Persons residing, domiciled, or maintaining business or other Premises in the City of Hayward shall subscribe to Collection service on at least a weekly basis for Single-Family Dwelling Units, or more often as may be required to adequately serve Multi-Family Dwelling Units or Commercial Premises.

SEC. 5-1.11 RATES CHARGED BY FRANCHISEE. The City of Hayward shall be responsible for establishing Rates for all services provided by the Franchisee, and Rates may be adjusted from time to time. The Franchisee shall charge only those Rates approved by the City of Hayward.

SEC. 5-1.12 RATE SUBSIDY FOR LOW-INCOME SINGLE-FAMILY RESIDENTS. The City has established eligibility criteria and a subsidy level for subscribers to Solid Waste Collection. The City shall receive, review and approve or deny all applications for this subsidy and will periodically advise the Franchisee in writing of additional residents the City has determined are eligible to receive the subsidy.

SEC. 5-1.13 COLLECTION AND REMOVAL. All Persons shall Dispose of Solid Waste using the services offered by the Franchisee and shall pay the Rates set by the City. Such Persons shall arrange with the Franchisee to specify the location of the Premises, Solid Waste Container types and sizes required, and the Collection frequency for Multi-Family and Commercial Premises.

SEC. 5-1.14 CONTAINERS: WATERTIGHT AND SUFFICIENT CAPACITY.

Every Person in possession, charge or control of any Premises occupied for Residential or Commercial uses shall provide or cause to be provided and at all times keep or cause to be kept, suitable and sufficient Containers. Such Containers shall be kept in a sanitary condition by the owners or tenants thereof. In all events, such materials stored prior to Collection shall be contained in a manner that discourages disturbance by, or harboring of, animals or pests, and to prevent fire or other safety hazard.

SEC. 5-1.15 COLLECTION LOCATION, FREQUENCY, PLACEMENT AND RETRIEVAL FROM SINGLE-FAMILY DWELLING UNITS. Collection shall be at curbside or streetside on a weekly basis, in accordance with a schedule prepared by the Franchisee. Every Single-Family occupant subscribing to Collection shall place Container(s) at curbside or streetside in a manner that, to the extent feasible, does not block any driveway, sidewalk or street. Such Containers shall not be placed curbside or streetside earlier than 6:00 a.m. the day before scheduled Collection, and shall be retrieved and placed on the Premises and out of view from the street no later than midnight on the day the Franchisee has emptied the Container(s). An exception to the required retrieval time would be if the Franchisee does not empty the Carts for Solid Waste, Recyclable Materials, or Organic Materials as scheduled and alternative Collection arrangements are made. The placement and retrieval described above does not apply to Roll-off Boxes requested for temporary use.

Provisions for placement of Carts or Bins at locations other than on the curb or in the street shall be at the discretion of the City Manager or his designee pursuant to the policies and procedures established by the Public Works Department.

Items scheduled for removal by the Franchisee as Bulky Items shall not be placed curbside or streetside earlier than the day before said Collection. Items not removed by the Franchisee on the scheduled date shall be retrieved no later than the day after the scheduled removal date, placed on the Premises and stored out of view from the street until alternate Collection or Disposal arrangements are made.-

Sideyard Service for Carts is available on request at no additional cost to eligible occupant(s). A completed application form is required and may be obtained from the Franchisee. Sideyard Service is also available on request for an additional fee.

SEC. 5-1.16 COLLECTION LOCATION, FREQUENCY, PLACEMENT AND RETRIEVAL FROM MULTI-FAMILY DWELLING PREMISES AND COMMERCIAL PREMISES. Collection shall be at least weekly or more frequently as described in this Article. If the Collection location requires placement of Cart(s) or Bin(s) curbside or streetside, then such Containers shall not be so placed earlier than 6:00 a.m. the day before scheduled Collection, and shall be retrieved and placed on the Premises by owner or his designee and out of view from the street after the Franchisee has emptied the Container(s) and no later than midnight of the scheduled Collection Day. An exception to the required retrieval time would be if the Franchisee does not service the Containers for Solid Waste, Recyclable Materials, or Organic Materials as scheduled and alternative Collection arrangements are made.

Provisions for placement of Carts or Bins at locations other than on the curb or in the street shall be at the discretion of the City Manager or his designee pursuant to the policies and procedures established by the Public Works Department.

The placement and retrieval described above does not apply to Roll-off Boxes requested for temporary use.

SEC. 5-1.17 TITLED OWNER RESPONSIBLE FOR COLLECTION

SERVICE. The owner of any occupied Dwelling Unit shall subscribe to and pay the Franchisee for service. Such Person holding legal title to land or a building(s) shall be responsible for all provisions of this Article, including and not limited to provisions regarding placement and retrieval of Containers and Bulky Items from curbside or streetside. Nothing in this section is intended to prevent an arrangement, or the continuance of an existing arrangement, under which subscription, or payments for Collection service, or both subscription and payment for such service is made by a tenant, tenants, or any agent on behalf of the owner. However, any such arrangement will not effect the owner's obligation should such subscription or payments not be made.

SEC. 5-1.18 FAILURE TO INITIATE SERVICE OR TO PROVIDE

SUFFICIENT CONTAINERS. The owner or tenant shall start Collection service within fifteen (15) days of occupancy for all Premises.

If the City is advised that service has not been initiated as provided for herein, or in its judgment determines that additional service is necessary, it may give the owner written notification that such service is required. If the required service is not initiated within fifteen (15) days from the date of mailing of the City's notice, the City may require the Franchisee to initiate and continue that Collection service for said Dwelling Unit.

SEC. 5-1.19 EXCEPTIONS TO MANDATORY SUBSCRIPTION.

Provisions for exceptions to mandatory subscription may be permitted at the discretion of the City Manager or his designee pursuant to the policies and procedures established by the Public Works Department.

SEC. 5-1.20 SOLID WASTE RECEPTACLES. PUBLIC PLACES.

Except as otherwise provided herein, no Solid Waste shall be placed or kept on or in any public street, sidewalk, footpath, or any public place whatsoever. Only Solid Waste receptacles owned by the City of Hayward shall be placed or kept on or in any public street, sidewalk, footpath, or any public place for use by pedestrians or other Persons using said street or public place to deposit small articles of waste carried by them. It shall be unlawful to place or cause to be placed any Solid Waste originating within or upon any private property into said receptacles.

SEC. 5-1.21 DISPOSAL OTHER THAN ON PREMISES WHERE

PRODUCED; EXCEPTIONS. No Person shall dump, deposit, or Dispose of, or cause or permit the dumping, depositing or Disposal of Solid Waste on Premises in the City other than where produced. However, discarding earth, rock, concrete, cement, gravel, sand, clay, loam, and other

non-combustible inorganic materials may be permitted under the following conditions: (1) when used for purposes of fill for a demolition or construction project that has been issued all permits by the City of Hayward; (2) if such material is not otherwise dangerous to health and safety; and (3) such operations do not block or impede natural drainage channels, drain ditches, canals, or drainage outlets, or result in pollution or contamination of waters.

SEC. 5-1.22 BURYING OR DUMPING PROHIBITED. No Person shall bury in any public land, street, alley, or place, or in any waterway within the City of Hayward any Solid Waste, Hazardous Waste, Infectious Waste, or Designated Waste.

SEC. 5-1.23 BURNING OF SOLID WASTE PROHIBITED. No Solid Waste shall be burned within the City of Hayward.

SEC. 5-1.24 OWNERSHIP OF COLLECTED MATERIALS. Once Solid Waste, Construction and Demolition Debris, Recyclable Materials, Organic Materials and Yard Trimmings are placed in Containers and at the Collection location, ownership and the right to possession of such materials shall transfer directly from the Generator to the Franchisee.

SEC. 5-1.25 COLLECTION, TRANSFER, AND DISPOSAL BY AUTHORIZED FRANCHISEE. The City shall authorize and regulate the Collection, Transfer and Disposal of all Solid Waste, Construction and Demolition Debris, Recyclable Materials, and Organic Materials generated at all Premises. Notwithstanding any permit issued by any other governmental agency authorizing Collection, no Person other than a Person authorized by the City shall Collect, Transfer, Process, or Dispose of any Solid Waste, Construction and Demolition Debris, Recyclable Materials, or Organic Materials, except as described elsewhere in this Article. No person shall interfere in any manner with the lawful operations of the Franchisee or his authorized agents or subcontractors.

SEC. 5-1.26 LIMITATIONS TO FRANCHISEE'S SCOPE OF SERVICES. It is unlawful for any Person other than the Franchisee or those persons employed by the Franchisee to haul any Solid Waste within the City except:

- (a) Construction and Demolition Debris which is: (1) removed from a Premise by a licensed contractor as an incidental part of a total construction, remodeling, or demolition service offered by that contractor rather than as a separately contracted or subcontracted hauling service using debris boxes or similar apparatus; or (2) directly loaded onto a fixed body vehicle and hauled directly to a facility that holds all applicable permits for Recycling, Composting or Disposal.
- (b) Yard Trimmings which are: (1) removed from Residential Premises by a contractor as an incidental part of a total gardening or landscaping service offered by that contractor, rather than separately contracted or subcontracted hauling service using debris boxes or similar apparatus, or (2) directly loaded onto a fixed body vehicle and hauled directly to a facility for Composting or Disposal that holds all applicable permits.
- (c) Source Separated Recyclable Materials or Source Separated Organic Materials, as defined in this Article, generated by Commercial businesses, including City facilities, which are

Collected by a Person through a private arrangement between the Generator and such Person to whom Generator either pays a fee for the Collection service or donates Source Separated Recyclable Materials or Source Separated Organic Materials; provided, however, the owner or occupant of such Commercial business shall be required to pay the Rates approved by the City even if owner or occupant does not participate in any of the services approved by City and offered by the Franchisee.

- (d) Solid Waste which is hauled directly to a facility for Composting, Recycling, Disposal or to a re-use vendor by the Generator of the Solid Waste.
- (e) Solid Waste, Yard Trimmings, or Recyclable Materials Collected and transported by City crews to facilities for Composting, Recycling, or Disposal.
- (f) Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500, et. seq. California Public Resources Code, as may be amended from time to time.
- (g) Source Separated Recyclable Materials and Yard Trimmings Generated in the City that are donated by the Generator to youth, civic, charitable, or other nonprofit organizations.
- (h) On-Site Composting of Yard Trimmings Composted on a Residential Premises.
- (i) Animal Waste and remains from slaughterhouse and butcher shops, grease waste for use as tallow or used cooking oil from food manufacturing processes.
- (j) By-products of wastewater treatment including sludge, sludge ash, grit, and screenings.
- (k) Household Hazardous Waste, Hazardous Waste, Infectious Waste, and Designated Waste regardless of its source with the exception of materials that the Franchisee is required to Collect.

SEC. 5-1.27 SPACE TO COLLECT AND LOAD RECYCLABLE MATERIALS AND ORGANIC MATERIALS. Projects for which a building permit is required for Residential or Commercial Premises shall include in its site plans storage space for Recyclable Materials and Organic Materials that is at least equivalent to the space required for Solid Waste intended for Disposal. Provisions for such storage may be in outdoor enclosures or other spaces. (Public Resources Code Section 42910-42912).”

Section 2. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 3. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held
the ____ day of _____, 2008, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the
day of _____, 2008, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward